

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: IOWA TELECOMMUNICATIONS SERVICES, INC., d/b/a IOWA TELECOM	DOCKET NO. SPU-02-18 (SPU-02-19)
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**ORDER GRANTING INTERVENTION AND ESTABLISHING
EXPEDITED PROCEDURAL SCHEDULE**

(Issued December 9, 2002)

On October 18, 2002, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), filed with the Utilities Board (Board) a petition for suspension or modification of long-term number portability in the Hartley, Primghar, and Paullina, Iowa, exchanges. The filing has been identified as Docket No. SPU-02-18. Also on October 18, 2002, Iowa Telecom filed a similar petition for suspension or modification of long-term number portability in the Coon Rapids, Iowa, exchange. That filing was identified as Docket No. SPU-02-19.

On December 6, 2002, the Board issued an order combining the two petitions in a single docket and assigning the matter to the undersigned to, among other things, conduct a hearing and issue a proposed decision

As authority for its petitions, Iowa Telecom cites to 47 U.S.C. §§ 251(b)(2), 251(f)(2), and 47 C.F.R. § 52.23(c). Specifically, 47 U.S.C. § 251(b)(2) provides that a local exchange carrier (LEC) has the duty to provide, to the extent technically

feasible, number portability in accordance with the requirements prescribed by the FCC. Section 251(f)(2) provides that a LEC with less than 2 percent of the nation's subscriber lines installed in the aggregate nationwide may petition a state commission for suspension or modification of the FCC requirements imposed under 47 U.S.C. § 251(b)(2), and that the state commission shall grant the petition to the extent and for the duration that the state commission determines that suspension or modification is 1) necessary to avoid a significant adverse economic impact on telecommunications customers, 2) necessary to avoid imposing a requirement that is unduly economically burdensome or technically infeasible, and 3) consistent with the public interest, convenience, and necessity. Finally, 47 C.F.R. § 52.23(c) provides that beginning January 1, 1999, all LECs must make long-term local number portability (LNP) available within six months after a specific request by another telecommunications carrier in the areas in which that telecommunications carrier is operating or plans to operate.

Iowa Telecom has an interconnection agreement with The Community Agency (TCA), which provides local exchange telecommunications service in the Hartley, Paullina, and Primghar exchanges. A draft amendment to that agreement issued May 10, 2002, by Iowa Telecom, contains the rates and charges for interim number portability. Iowa Telecom states that no numbers have been ported to TCA via interim number portability. On July 29, 2002, TCA sent Iowa Telecom a bona fide request for long-term LNP for the Hartley, Paullina, and Primghar, Iowa, exchanges.

Pursuant to 47 C.F.R. § 52.23(c), Iowa Telecom must make long-term LNP available to TCA by January 29, 2003.

Iowa Telecom also has an interconnection agreement with the Coon Rapids Municipal Communications Utility (CRMUCU), which provides local exchange telecommunications service to the Coon Rapids, Iowa, exchange. The agreement contains rates and charges for interim number portability and Iowa Telecom has ported some numbers to CRMUCU by that method. On July 1, 2002, CRMUCU sent Iowa Telecom a bona fide request for long-term LNP for the Coon Rapids exchange. Pursuant to 47 C.F.R. § 52.23(c), Iowa Telecom must make long-term LNP available to CRMUCU by January 1, 2003.

Iowa Telecom states that its initial capital investment required to meet TCA's request for LNP would be \$150,000. Additionally, ongoing annual network expenses estimated at \$26,520 would be necessary. Iowa Telecom also states that to provide LNP to CRMUCU, its initial capital investment would be \$115,000, with annual network expenses estimated at \$12,912.

Iowa Telecom asserts that its costs could only be recovered through the FCC's Service Provider's Number Portability (SPNP) fee. Iowa Telecom claims that the SPNP fee would provide only 55 percent of the initial capital investment and nothing towards the annual expenses necessary to meet TCA's LNP request. Iowa Telecom also states the SPNP would provide only 18 percent of the initial capital investment and nothing towards the annual expenses necessary to meet CRMUCU's

LNP request. Iowa Telecom states that without the ability to recover its costs, its service to existing customers will be affected as well as its ability to invest in long-term projects to improve its rural telecommunications infrastructure.

On November 6, 2002, TCA and CRMCU filed responses to Iowa Telecom's petitions. TCA states it is losing customer revenue due to Iowa Telecom's refusal to provide long-term LNP. CRMCU states that it needs long-term LNP to provide its customers with updated services such as high speed Internet and software for voice mail, caller I.D., and message referral, which Iowa Telecom has failed to provide.

Both TCA and CRMCU challenge Iowa Telecom's cost projections for the implementation of long-term LNP as well as Iowa Telecom's cost recovery projections from the SPNP fee. TCA and CRMCU also take issue with Iowa Telecom's statement that implementing long-term LNP would preclude it from updating its network.

The responses filed by TCA and CRMCU on November 6, 2002, meet the requirements for intervenors set forth in 199 IAC 7.2(7)"d." TCA and CRMCU will be granted intervention in this docket. TCA and CRMCU have demonstrated a vested interest in the subject matter of this proceeding as well as a unique interest in these proceedings that should be represented.

In cases under these federal statutes, 47 U.S.C. § 251(f)(2) provides that a state agency must act upon the petition within 180 days after receiving it. Because Iowa Telecom's petitions for suspension or modification of long-term portability were

filed on October 18, 2002, an expedited procedural schedule is necessary to accommodate the federal mandate.

Finally, enforcement of the requirements set forth in 47 C.F.R. § 52.23(c) will be suspended during the pendency of this proceeding, pursuant to 47 U.S.C. § 251(f)(2).

IT IS THEREFORE ORDERED:

1. Intervenor status is granted to The Community Agency and Coon Rapids Municipal Communications Utility as described in the body of this order. Both parties shall be allowed unrestricted rights to participate in these proceedings.

2. The following expedited procedural schedule is established for this proceeding:

a. Iowa Telecom shall file prepared direct testimony, with supporting exhibits and workpapers on or before January 10, 2003.

b. The Community Agency and Coon Rapids Municipal Communications Utility shall file rebuttal testimony, with supporting exhibits and workpapers, on or before January 21, 2003.

c. Iowa Telecom may file rebuttal testimony on any issue raised initially in that party's direct testimony and responded to by another party on or before January 27, 2003.

d. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 10 a.m. on Thursday,

January 30, 2003, in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at 515-281-5256 to request appropriate arrangements.

e. Any party desiring to file a brief may do so on or before February 6, 2003.

4. In the absence of objection, all workpapers shall become a part of the evidentiary record at the time the related testimony and exhibits are entered in the record.

5. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination, which have not previously been filed with the Board, shall become a part of the evidentiary record. The party making reference to the data request or response shall file an original and six copies at the earliest possible time.

6. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be reopened and the evidence will become a part of the evidentiary record five days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of hearing.

7. Pursuant to 199 IAC 7.7(2) and (11), the time for filing responses or objections to data requests and motions will be shortened to five days from the date the motion is filed or the data request is served. All data requests and motions should be served by facsimile or electronic mail, in addition to United States Mail.

8. Pursuant to 47 U.S.C. § 251(f)(2), enforcement of 47 C.F.R. § 52.23(c) is suspended with respect to Iowa Telecom's Hartley, Primghar, Paullina, and Coon Rapids exchanges, pending issuance of a final decision and order in this docket.

UTILITIES BOARD

/s/ Amy L. Christensen

Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper

Executive Secretary

Dated at Des Moines, Iowa, this 9th day of December, 2002.